

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DEBBIE OLIVIERI
1211 South 4th Street
Philadelphia, PA 19147-5201,

Plaintiff,

vs.

ER SOLUTIONS, INC.
800 SW 39th Street
Renton, WA 98057,

Defendant.

CIVIL ACTION NO.

COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 (“FDCPA”).

2. The FDCPA prohibits collectors from engaging in deceptive and unfair practices in the collection of a consumer debt.

3. Defendant is subject to strict liability for sending a collection letter which violates the provisions of the FDCPA.

II. JURISDICTION

4. Jurisdiction arises under 15 U.S.C. § 1692k and 28 U.S.C. § 1337.

III. PARTIES

5. Plaintiff Debbie Olivieri (“Plaintiff”) is a consumer who resides in Philadelphia, Pennsylvania at the address captioned.

6. Defendant ER Solutions, Inc. (“ER”) is believed to be a Washington corporation with a place of business in Renton, Washington and a mailing address as captioned.

7. ER regularly engages in the collection of consumer debts in the Eastern District of Pennsylvania using the mails and telephone.

8. ER regularly attempts to collect consumer debts alleged to be due another.

9. ER is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. §1692a(6).

IV. STATEMENT OF CLAIM

10. On April 13, 2011, Defendant ER sent Plaintiff a collection notice seeking to collect a consumer debt alleged due. A copy of the collection notice is attached hereto as Exhibit A (redacted for privacy, per Fed. R. Civ. Pro. 5.2).

11. The collection notice states that the balance due consists of:

Principal:	\$4,997.75
Interest:	\$ 34.50
Total Balance:	\$5,032.25

12. Defendant’s statement in its April 13, 2011 letter that the balance consists of \$4,997.75 in principal and \$34.50 in interest is deceptive and misleading. The principal amount claimed is inaccurate as it includes already accumulated interest and fees. This results in an inaccurate and overstated amount of principal being charged.

13. The term “principal,” as it is commonly understood, does not include interest and fees assessed on the amount borrowed.

14. The FDCPA prohibits debt collectors from using false, deceptive or misleading means in an attempt to collect a debt alleged due, including misrepresenting the character, status, or amount of the debt alleged debt. 15 U.S.C. § 1692e and § 1692e(2).

15. Misrepresentation of interest and fees as “principal” is deceptive and has practical implications, including potential income tax ramifications.

COUNT I - FAIR DEBT COLLECTION PRACTICES ACT

16. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

17. Defendant ER's April 13, 2011 collection letter violates the Fair Debt Collection Practices Act by using false, deceptive or misleading statements in the collection of a consumer debt, in violation of 15 U.S.C. § 1692e and § 1692e(2).

WHEREFORE, Plaintiff Debbie Olivieri demands judgment against Defendant ER Solutions, Inc. for:


- (a) Damages;
- (b) Attorney's fees and costs;
- (c) Such other and further relief as the Court shall deem just and proper.

V. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all issues so triable.

Date: 6/21/11

Respectfully submitted:



CARY L. FLITTER
THEODORE E. LORENZ
ANDREW M. MILZ
Attorneys for Plaintiff

LUNDY, FLITTER, BELDECOS &
BERGER, P.C.
450 N. Narberth Avenue
Narberth, PA 19072
(610) 822-0781